## REMARKS

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated or unpatentable under the provisions of 35 U.S.C. § 102 and 103. Thus, the Applicants believe that all of these claims are now in allowable form.

### I. REJECTION OF CLAIMS 1-4, 7 AND 10-20 UNDER 35 U.S.C. § 102

The Examiner has rejected claims 1-4, 7 and 10-20 in the Office Action under 35 U.S.C. § 102 as being anticipated by Hodes (US Publication 2002/0088855, published July 11, 2002, hereinafter referred to as "Hodes".) The Applicants respectfully traverse the rejection.

Hodes teaches a point of sale activation for software and metered accounts. Hodes teaches that a data-encoded magnetic strip is sold with a related item or items. (See Hodes, paragraph [0006].) The goods or services are purchased in store in a cold state at the point of sale. (See Hodes, paragraph [0080].) Once the goods or services are purchased in store, a PIN is activated to download software or activation codes to allow full access to the purchased goods or services. (See Hodes, para. [0110].)

The Examiner's attention is directed to the fact that Hodes fails to teach or suggest the novel concept of a method or system of providing digital content to consumers in conjunction with an authentication process, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) in response to **a request for confirmation from a digital content provider**, said digital content provider sending said request for confirmation **in response to a request for said digital content** by a consumer possessing said purchased PDCM, as positively claimed by Applicants' independent claims 1, 11 and 19. Specifically, Applicants' independent claims 1, 11 and 19 positively recite:

> 1. A method of providing digital content to consumers, comprising:
> receiving unique identification information associated with a prepaid digital content medium (PDCM) from a consumer distributor of said PDCM;



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activating said PDCM based upon said unique identification information; and

sending confirmation of activation of said PDCM **in response to a request for confirmation from a digital content provider**, said digital content provider sending said request for confirmation in response to a request for said digital content by a consumer possessing said purchased PDCM. (Emphasis Added.)

11. A system for providing digital content, comprising:

a prepaid digital content medium (PDCM) comprising unique identification information thereon;

a PDCM consumer distributor for selling said PDCM;

**a digital content provider** for storing said digital content associated with said PDCM, said digital content provider adapted for communication with a consumer computer device to request and receive said digital content; and

an authentication service provider for maintaining corresponding identification information associated with said PDCM, said authentication service provider adapted to activate said PDCM upon receiving notice of purchase of said PDCM, said authentication service provider sending confirmation of activation of said PDCM **in response to a request for confirmation from said digital content provider**, wherein said digital content provider sends said request for confirmation **in response to said consumer computer device requesting to receive said digital content from said service provider**. (Emphasis Added.)

19. A method for providing digital content using a prepaid digital content medium (PDCM), comprising:

activating said PDCM at an authentication service provider in response to receiving identifying and purchase information associated with said PDCM from a distributor of said PDCM; and

**providing said digital content to a computer device of a user from a digital content provider**, in an instance where said user is registered with said digital content provider, and said identifying and purchasing information associated with said PDCM is reconfirmed **as being activated by said authentication service provider**. (Emphasis Added.)

The Applicants' invention teaches a method and system of providing digital content to consumers, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) in response to a request for confirmation from **a digital content provider**, said digital content provider sending said request for confirmation **in response to a request for said digital content** by a



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consumer possessing said purchased PDCM. The Applicants' invention allows a promoter of digital content to indirectly sell digital content at a retailer. (See Applicants' specification, page 3, paragraph [0012].) This allows digital content providers to enjoy the success merchants of tangible goods have had with pre-paid cards. (See Applicants' specification, page 1, paragraph [0004].) In one embodiment, the Applicants' invention is achieved because the authentication service provider is able to communicate with two different service providers; a distributor retailer and a digital content provider. (See Applicants' Specification, page 4, paragraph [0015]; Figure 1.) Thus, there are **three** separate service providers in Applicants' invention.

In contrast, Hodes fails to anticipate the Applicants' invention in two respects. First, Hodes does not teach or suggest interaction with a digital content provider. Rather, Hodes teaches that the digital content is sold in a "cold" state along with a magnetic strip at the point of sale. (See Hodes, paragraphs [0006], and [0100]) Hodes defines "cold" state as "a feature of the invention provides less than the entire amount of the goods and services such that the product is non-functional before being purchased." In turn, Hodes teaches that when the PIN is activated, the user can receive access codes or keys that allow the full value or use of the product purchased. (See Hodes, paragraphs [0006]; ("Hot Inventory") [0102]-[0103], and [0110].) Thus, Hodes only teaches that the purchased content is actually residing with the purchaser and that upon validation, the purchaser may receive a key or code to activate the purchased good. In contrast, in one embodiment of Applicants' invention, the consumer possessing a purchased PDCM downloads the digital content from a digital content provider. (See Applicants' Specification, pg. 8, paragraph [0030]; pg. 9, paragraph [0034].)

Second, Applicants' invention teaches a unique approach in authentication. Note that in Applicants' invention, the authentication service provider is **not** the digital content provider. In other words, the service provider who performs the authentication is **not** providing the digital content to the purchaser. In contrast, even if we allow Hodes to arguably be interpreted to



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provide the entire product via a service provider, Hodes does not teach the same authentication process. To illustrate, Hodes states that "a website is contacted for registration and/or authentication, and the chip-associated amount is checked for authentication prior to download of any software or activation codes." (See Hodes, Paragraph [0110]). Furthermore, Hodes states that "when the website is contacted for registration and authentication the PIN-numbered account is checked for activation prior to download of any software or activation codes so that the method of present method can be practiced." Thus, it is convincingly clear that Hodes is teaching that the authentication service provider is also providing the content to the purchaser. (See Hodes, last sentence in Paragraph [0117]). That is not Applicants' invention.

Therefore, Hodes does not teach a method and system of providing digital content to consumers, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) in response to a request for confirmation from a digital content provider, said digital content provider sending said request for confirmation in response to a request for said digital content by a consumer possessing said purchased PDCM. As such, the Applicants respectfully submit that Hodes clearly does not anticipate Applicants' independent claims 1, 11 and 19 and respectfully request the rejection be withdrawn.

Furthermore, dependent claims 2-4, 7, 10, 12-18 and 20 depend, either directly or indirectly, from claims 1, 11 and 19, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 2-4, 7, 10, 12-18 and 20 are also patentable and not anticipated by Hodes. As such, the Applicants respectfully request the rejection be withdrawn.

## II. REJECTION OF CLAIMS 5, 6, 8 AND 9 UNDER 35 U.S.C. § 103

The Examiner has rejected claims 5, 6, 8 and 9 in the Office Action under 35 U.S.C. § 103 as being unpatentable Hodes in view of Petit (US Publication 2002/0082916, published June 27, 2002, herein referred to as "Petit".) Applicants respectfully traverse the rejection.



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The teachings of Hodes have been discussed above. Petit teaches a web ticket management method and kiosk. A list of identifiers is associated with at least one service of a merchant. (See Petit, paragraph [0006].) Tickets to which an identifier has been applied are distributed to the customers. (See *Id.*)

The Examiner's attention is directed to the fact that Hodes and Petit (either singly or in any permissible combination) fail to teach, show or suggest a method and system of providing digital content to consumers, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) **in response to a request for confirmation from a digital content provider**, said digital content provider sending said request for confirmation **in response to a request for said digital content** by a consumer possessing said purchased PDCM, as positively claimed by Applicants' independent claims 1, 11 and 19. (See *supra*.)

The Applicants' invention teaches a method and system of providing digital content to consumers in conjunction with an authentication process, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) **in response to a request for confirmation from a digital content provider**, said digital content provider sending said request for confirmation **in response to a request for said digital content** by a consumer possessing said purchased PDCM. The Applicants' invention allows a promoter of digital content to indirectly sell digital content at a retailer. (See Applicants' specification, page 3, paragraph [0012].) In one embodiment, the Applicants' invention is achieved because the authentication service provider is able to communicate with two different service providers; a distributor retailer and a digital content provider. (See Applicants' Specification, page 4, paragraph [0015]; Figure 1.)

In contrast, Hodes and Petite, alone or in any permissible combination, fail to teach, show or suggest the Applicants' invention. As discussed above, Hodes clearly does not teach, show or suggest a method and system of providing digital content to consumers, comprising sending confirmation of activation of a prepaid digital content medium (PDCM) **in response to a request for confirmation from a digital content provider**, said digital content provider sending said



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request for confirmation **in response to a request for said digital content** by a consumer possessing said purchased PDCM, as taught by the Applicants' invention. (See *supra*.) This significant gap is not bridged by the teaching of Petit. Petit only teaches that in the event of a shipping problem, the merchant can re-credit the customer's account. (See Petit, paragraph [0032].)

In arguendo, even if Hodes and Petit were combined, the combination would still not teach or suggest Applicants' invention. The combination of Hodes and Petit would only teach a magnetic stripe sold with a related item or goods that can be activated by utilizing a PIN to download access codes or keys, wherein in the event of shipping problem, the merchant can re-credit the customer's account. Therefore, the combination of Hodes and Petit does not teach or suggest Applicants' invention as recited in independent claims 1, 11 and 19.

Dependent claims 5, 6, 8 and 9 depend, either directly or indirectly, from independent claim 1 and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 5, 6, 8 and 9 are also not made obvious by the teachings of Hodes and Petit. As such, the Applicants respectfully request the rejection be withdrawn.



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## CONCLUSION

Thus, the Applicants submit that all of these claims now fully satisfy the requirements of 35 U.S.C. §§ 102 and 103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully Submitted,

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